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MEMO ENDORSED

August 21, 2012

VIA FAX (914) 390-4298The application is ☒ granted.
— denied.

Honorable Edgardo Ramos
United States District Judge
United States District Court, United States Courthouse
300 Quarropas Street, Courtroom 218
White Plains, New York 10601



Edgardo Ramos, U.S.D.J.
Dated: August 27, 2012
White Plains, New York

Re: Pennsylvania National Mutual Casualty Insurance Co. v.
Lexington Insurance Co.
Index No: 10-CV-03344

Dear Judge Ramos:

We represent plaintiff Pennsylvania National Mutual Casualty Insurance Co. ("Penn National") in the above-mentioned proceeding.

Pursuant to footnote 1 of this Court's Order dated August 15, 2012 ("Order"), Penn National and defendant Lexington Insurance Company ("Lexington") respectfully submit this joint application requesting that the Order remain filed under seal.

Upon commencement of the above-referenced action, the parties jointly submitted a proposed Stipulated Protective Order to the Honorable Kenneth M. Karas, so ordered on October 13, 2010, in an effort to preserve the private and confidential nature of the information and documents that would be produced in the instant action. Given that the instant bad faith action would inevitably reveal confidential, private, proprietary, and/or privileged information concerning Penn National and Lexington's mutual insured, who is not a party herein, both parties agreed that it was in the best interest of all parties to protect the integrity of such information, the rights of both parties, and most important, the rights of their mutual insured.

Preserving the confidential nature of the information contained in the Order serves significant interests, which include facilitating Penn National and Lexington's efforts to protect the interests of its insured. Moreover, the public disclosure of such information could potentially subject both Penn National and Lexington to claims by their mutual insured for breaching their duty to maintain confidentiality.

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Given that the Order cites to sensitive and detailed communications and information, including detailed communications between the parties, their mutual insured, and their insured's defense counsel concerning the underlying action, which has thus far been protected under the Protective Order, both parties respectfully submit that the Order remain filed under seal in order for the parties to continue exercising their utmost good faith to their mutual insured.

Notably, this is not a case whether the insurance companies are seeking to use the attorney-client or work-product privileges as a shield to prevent disclosure of information to one another which would be relevant to the instant bad faith claim. Rather, the parties are simply preventing the disclosure of such information from the general public, especially herein, where their mutual insured is not a party, and does not have the opportunity to assert such a privilege on its own.

As such, Penn National and Lexington respectfully request that the Order remain filed under seal.

Respectfully Submitted,

THE SULLIVAN LAW GROUP, LLP

By:


Dana B. Hoffman

cc: VIA EMAIL

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